

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**GARY R. PACE,  
RESPONDENT  
vs.**

**CITY OF ST. JOSEPH,  
APPELLANT**

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DOCKET NUMBER WD77976

DATE: APRIL 21, 2014

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Appeal from:

The Circuit Court of Buchanan County, Missouri  
The Honorable Randall R. Jackson, Judge

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Appellate Judges:

Division Two: Lisa White Hardwick, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

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Attorneys:

Benjamin S. Creedy, for Appellant

John M. Brigg, for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**GARY R. PACE, APPELLANT**

**v.**

**CITY OF ST. JOSEPH, RESPONDENT**

WD77976

Buchanan County, Missouri

Before Division Two: Lisa White Hardwick, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Gary Pace brought a declaratory judgment action against the City of St. Joseph seeking to determine the rights of the parties under a workers' compensation award, specifically who has the right to select Mr. Pace's medical providers for his future care. On cross-motions for summary judgment, the trial court entered summary judgment in favor of the City finding that the award authorized the City to select Mr. Pace's medical providers for his future care. On appeal, Mr. Pace argues that the trial court misinterpreted the award and that under Missouri law, the City permanently waived its statutory right to select his treating doctors. The judgment is affirmed.

**AFFIRMED.**

**Division Two holds:**

The clear and unambiguous language of the Commission's award provides that the City has a duty to provide future medical treatment for Mr. Pace and has the right to select the treating providers. The award is, on its face, conclusive of the issue of who has the right to select Mr. Pace's medical providers for his future care. To the extent that Mr. Pace's declaratory judgment action sought to rewrite the Commission's award to find that the City waived the right to select providers for Mr. Pace's future care, the action constituted an impermissible collateral attack on the award. The trial court correctly determined and declared that, under the Commission's award, the City is authorized to select medical providers for Mr. Pace's future care.

**Opinion by: Victor C. Howard, Judge**

Date: April 21, 2015

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